

Chapter 107

Licensing

[HISTORY: Adopted by the Mayor and Council of the Town (now City) of Seat Pleasant 2-14-1994 by Ord. No. 94-01. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 50.

Animals — See Ch. 54.

Street vendors — See Ch. 141.

§ 107-1. Title.

This chapter shall be known and may be cited as the "General Licensing Ordinance of the City of Seat Pleasant."

§ 107-2. Scope.

It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter. Where this chapter imposes a greater restriction upon persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

§ 107-3. Definitions and word usage.

- A. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
- B. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

BUSINESS — All kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in this City or anywhere else within its jurisdiction.

CITY — The City of Seat Pleasant, Maryland.

CITY COUNCIL — The City Council of the City of Seat Pleasant.

CITY LICENSE OFFICER or LICENSE OFFICER — The City Administrator of the City of Seat Pleasant.

INSIGNIA or INSIGNE — Any tag, plate, badge, emblem, sticker or any other kind of device which may be required for any use in connection with any license.

LICENSE or LICENSEE — The words "permit" or "permittee" or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this chapter or other law or ordinance.

OFFENSE — The violation of § 107-4, 107-8, 107-9A(2), (3) or (4), 107-10B or 107-15 of this chapter by any person. In the case of violations of §§ 107-4 and 107-15 by any person, it shall be a violation for each day that the violation(s) exist, and each violation shall be deemed a separate offense. [Added 5-13-1996 by Ord. No. 96-02]

PERSON — Individual natural persons, partnerships, joint adventures, societies, associations, clubs, trustees, trusts or corporations or any officers, agents, employees, factors or any kind of personal representatives of any thereof, in any capacity, acting either for himself/herself or for any other person, under either personal appointment or pursuant to law.

PREMISES — All lands, structures and places and also the equipment and appurtenances connected or used therewith in any business and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

§ 107-4. Compliance required.

It shall be unlawful for any person, either directly or indirectly, to conduct any business or nonprofit enterprise or to use in connection therewith any vehicle, premises, machine or device, in whole or in part, for which a license or permit is required by any law or ordinance of this City, without a license or permit therefor being first procured and kept in effect at all such times as required by this chapter or other law or ordinance of this City.

§ 107-5. Applicability.

- A. Business license required. A person may not engage in business in the City of Seat Pleasant without obtaining a business license from the City as provided in this chapter. [Amended 6-10-2002 by Ord. No. 02-02]
- B. For purpose of this chapter, any person shall be deemed to conduct or engage in business or conduct or operate a nonprofit enterprise and thus be subject to the requirements of this chapter, when the person does at least one act of: [Amended 6-10-2002 by Ord. No. 02-02]
 - (1) Selling any goods or service.
 - (2) Soliciting business or offering goods or services for sale or hire.
 - (3) Acquiring or using any vehicle or any premises in the City for business purposes.
- C. Responsibility for obtaining license; premises' owner liability. [Amended 6-10-2002 by Ord. No. 02-02]
 - (1) An owner, or agent of an owner, of a business shall obtain the license required by this section.
 - (2) If an agent of the owner of the business obtains the license, the owner of the business shall be responsible jointly with the agent for complying with the requirements of the license and with the other requirements of this chapter.

- (3) The owner of the premises on which a business is conducted, if the owner of the premises is not the owner of the business, also is responsible for ensuring that each business conducted or operated on the premises obtains and complies with the license required by this section. The owner of the premises is required to sign each application for the issuance and renewal of a business license for a business located on the owner's premises.
- D. Separate license for branch establishments. A license shall be obtained in the manner prescribed herein for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business, provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.
- E. Rental real property. Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this chapter when there is a representative of the owner or the owner's agent on the premises who is authorized to transact business for such owner or owner's agent or there is a regular employee of the owner or of the owner's agent working on the premises.
- F. Joint license. A person engaged in two or more businesses at the same location shall not be required to obtain separate licenses for conducting each of such businesses but, when eligible, shall be issued one license which shall specify on its face all such businesses.
- G. No license required for mere delivery. No license shall be required for any person for any mere delivery in the City of any property purchased or acquired in good faith from such person at his/her regular place of business outside the City where no intent by such person is shown to exist to evade the provisions of this chapter.

§ 107-6. Nonprofit enterprise.

The City Administrator shall issue special permits, without the payment of any license fees or other charges therefor, to any person or organization for the conduct or operation of a nonprofit enterprise, either regularly or temporarily, when he/she finds that the applicant operates without private profit for a public, charitable, educational, literary, fraternal or religious purpose.

- A. Application for special permit. An applicant for a special permit shall submit an application therefor to the City Administrator, upon forms prescribed by the City Administrator, and shall furnish such additional information and make such affidavits as the City Administrator shall require.
- B. Special permittees must conform. A person or organization operating under a special permit shall operate his/her nonprofit enterprise in compliance with this chapter and all other applicable rules and regulations except as provided herein.

§ 107-7. City Administrator.

- A. The City Administrator shall collect all license fees and shall issue licenses in the name of the City to all persons qualified under the provisions of this chapter and shall:

- (1) Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this chapter.
 - (2) Adopt all forms and prescribe the information to be given therein as to character and other relevant matter for all necessary papers.
 - (3) Require applicants to submit all affidavits and oaths necessary to the administration of this chapter.
 - (4) Submit all applications, in a proper case, to interested City officials for their endorsements thereon as to compliance by the applicant with all City regulations which they have the duty of enforcing.
 - (5) Investigate and determine the eligibility of any applicant for a license as prescribed herein.
 - (6) Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this chapter.
 - (7) Notify any applicant of the acceptance or rejection of his/her application and, upon his/her refusal of any license or permit, at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.
- B. The City Administrator shall keep all information furnished or secured under the authority of this chapter in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration of this chapter.

§ 107-8. Qualifications of applicants.

The general standards herein set out relative to the qualifications of every applicant for a City license shall be considered and applied by the City Administrator. The applicant shall:

- A. Be of good moral character. In making such determination, the City Administrator shall consider:
- (1) Penal history: all convictions, the reasons therefor and the demeanor of the applicant subsequent to his/her release.
 - (2) License history: the license history of the applicant; whether such person, in previously operating in this or another state under a license, has had such license revoked or suspended, the reasons therefor and the demeanor of the applicant subsequent to such action.
 - (3) General personal history: such other facts relevant to the general personal history of the applicant as he/she shall find necessary to a fair determination of the eligibility of the applicant.
- B. Not be in default under the provisions of this chapter or indebted or obligated in any manner to the City except for current taxes.
- C. Present a certificate of occupancy furnished by the County Inspector to the effect that the

proposed use of any premises is not a violation of county zoning regulations.

§ 107-9. Issuance of license; receipt.

- A. Formal application required. Every person required to procure a license under the provisions of any ordinance or law of the City shall submit an application for such license to the City Administrator. The application shall:
 - (1) Be a written statement upon forms provided by the City Administrator; such form shall include an affidavit, to be sworn to by the applicant before a Notary Public of this state.
 - (2) Require the disclosure of all information necessary to compliance with § 107-8 above and of any other information which the City Administrator shall find to be reasonably necessary to the fair administration of this chapter.
 - (3) Be accompanied by the full amount of the fees chargeable for such license.
 - (4) Be accompanied by the payment of an issuance fee as established by the City Council from time to time.
- B. Issuance of receipts. Whenever a license cannot be issued at the time the application for the same is made, the City Administrator shall issue a receipt to the applicant for the money paid in advance, subject to the following conditions:
 - (1) Such receipt shall not be construed as the approval of the City Administrator for the issuance of a license nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter.

§ 107-10. Renewal license procedure.

The applicant for the renewal of a license shall submit an application for such license to the City Administrator. The application shall:

- A. Be a written statement upon forms provided by the City Administrator; such form shall include an affidavit, to be sworn to by the applicant before a Notary Public of this state.
- B. Require the disclosure of such information concerning the applicant's demeanor and the conduct and operation of applicant's business during the proceeding licensing period as is reasonably necessary to the determination by the Administrator of the applicant's eligibility for a renewal license and to a possible adjustment of license fee.

§ 107-11. Duplicate or supplemental license.

- A. Duplicate license procedure. A duplicate license or special permit shall be issued by the Administrator to replace any license previously issued, which has been lost, stolen, defaced or destroyed without any willfull conduct on the part of the licensee, upon the filing by the licensee of an affidavit sworn to before a Notary Public of this state attesting to such fact and the paying to the City Administrator of a fee as set forth from time to time by resolution of the City Council.

- B. Supplemental license procedure. When a licensee places himself/herself in a new status, the City Administrator shall issue a supplemental license and such additional insignia as may be required.

§ 107-12. Nonapproval of license.

- A. The City Administrator shall, upon disapproving any application submitted under the provisions of this chapter, refund all fees paid in advance to the applicant, provided that the applicant is not otherwise indebted to the City.
- B. Compliance pending legal action. When the issuance of a license is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued to him/her pursuant to a judgment ordering the same.

§ 107-13. License fee.

License fees shall be in the amounts established from time to time by resolution, and as further determined under this section.¹

§ 107-14. Contents of license.

Each license issued hereunder shall state upon its face the following:

- A. The name of the licensee and any other name under which such business is to be conducted.
- B. The kind and address of each business so licensed.
- C. The amount of license fee therefor.
- D. The dates of issuance and expiration thereof.
- E. Such other information as the City Administrator shall determine.

§ 107-15. Duties of licensee.

- A. General standards of conduct. Every licensee under this chapter shall:
 - (1) Permit all reasonable inspections of his/her business and examinations of his/her books by public authorities so authorized by law.
 - (2) Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
 - (3) Avoid all forbidden, improper or unnecessary practices or conditions which do or may affect the public health, morals or welfare.
 - (4) Refrain from operating the licensed businesses on premises after expiration of his/her license and during the period his/her license is revoked or suspended.

¹. Editor's Note: The current fee schedule is on file in the City offices.

B. Display of license. Every licensee under this chapter shall:

- (1) Post and maintain such license upon the licensed premises in a place where it may be seen at all times.
- (2) Carry such license on his/her person when he/she has no licensed business premises.
- (3) Affix any insignia delivered for use in connection therewith upon the outside of any coin, vending or other business machine or device so that it may be seen at all times.
- (4) Not allow any license, special permit or insignia to remain posted or displayed or used after the period for which it was issued has expired or when it has been suspended or revoked or for any other reason becomes ineffective. The licensee shall promptly return such inoperative license, special permit or insignia to the City Administrator.

§ 107-16. Enforcement; prohibited conduct; penalties. [Amended 6-10-2002 by Ord. No. 02-02]

A. Inspections. The following persons are authorized to conduct inspections in the manner prescribed herein:

- (1) City Administrator. The City Administrator shall make all investigations reasonably necessary to the enforcement of this chapter.
- (2) Officials having duties. The City Administrator shall have the authority to order the inspection of licensees, their businesses and premises by all City officials having duties to perform with reference to such licensees or businesses.
- (3) Police officers. All police officers shall inspect and examine businesses located within their respective jurisdictions or beats to determine and enforce compliance with this chapter.
- (4) Code enforcement officers. Civilian code enforcement officers of the Seat Pleasant Police Department may conduct all inspections and examinations necessary to determine and enforce compliance with the requirements of this chapter.

B. Compliance order. When an inspector has reported a violation of this chapter or of any law or ordinance by a business that is required to be licensed under this chapter, the City Administrator shall issue an order to comply. The order shall specify the nature of the violation and the actions that are required to cure the violation. The order shall be issued to the licensee of the business; to the owner of the business or agent of the owner if the business has not obtained a business license as required by this chapter; and to the owner of the premises on which the business is being conducted. For purposes of this Subsection B, for a business that has not obtained a business license as required by this section, any manager or other person responsible for the operation of the unlicensed business on the premises is deemed the agent of the owner of the business.

- (1) Service of order and other notices. The order and all other notices required by this chapter shall be in writing and shall be hand delivered to the addressee or shall be sent to the addressee by certified mail, return receipt requested, and by first class mail. Depositing such order or notice in the United States mails shall constitute

service thereof. If sent by mail, an order or notice shall be sent to the following addresses:

- (a) If sent to the licensee of the business, the order or other notice shall be sent to the address of the licensee as stated in the license application.
 - (b) If sent to the owner or agent of an owner of a business that does not have a current license, the order or other notice shall be sent to the address of the premises at which the business is conducted.
 - (c) If sent to the owner of the premises at which a business is conducted, the order or other notice shall be sent to the address for the premises owner as stated in the license application, or, if no address is stated in the license application, the address for the owner as contained in the records of the Maryland Department of Assessments and Taxation.
 - (2) Period for compliance. The order shall require compliance within 10 days after service of the order.
 - (3) Hearing. Upon written application by a person who has been served with an order under this Subsection B, delivered to the City Administrator before the expiration of the ten-day period for compliance, the City Administrator shall order a hearing. Notice of such hearing shall be given to the person who requested the hearing in the manner prescribed in Subsection B(1). Compliance with the order is suspended pending the City Administrator's determination following the hearing. As a result of the hearing, the City Administrator shall issue a written determination that affirms, modifies or rescinds the order, and if the order is affirmed or modified, the City Administrator's determination shall set a new time for compliance with the order. The City Administrator's determination shall be served promptly on all persons upon whom the original order was served.
- C. Prohibited conduct. If an order entered pursuant to Subsection B that requires an unlicensed business to obtain a business license as required by this chapter is not complied with within the time specified in Subsection B(2) or (3):
- (1) The business may not continue to operate until the required license is obtained.
 - (2) A person may not continue to conduct or engage in the business until the required license is obtained.
 - (3) The owner of the premises on which a business is conducted may not allow business to continue to operate until the required license is obtained. If a business continues to operate on the premises after an order has been served on the owner of the premises, the owner of the premises is deemed to have allowed the business to continue to operate unless the owner demonstrates by clear and convincing evidence that the owner made reasonable efforts to force the business to cease operations until a license is obtained.
 - (4) A person may not be present on the premises in which the business is conducted until the required license is obtained.

- (5) The City shall post notices on the outside and inside of the premises in which the business is conducted giving notice that the business is not licensed as required by law, that the business may not operate until the license is obtained, that any person engaged in or conducting business on the unlicensed premises is guilty of a misdemeanor punishable by a fine of \$1,000, that any other person present on the unlicensed premises is guilty of a municipal infraction punishable by a fine of \$500, and that removal of the notice is a misdemeanor punishable by a fine in the amount of \$1,000.

D. Penalties.

- (1) A person who violates Subsection C(1), (2) or (3) of this section is guilty of a misdemeanor, punishable by a fine in the amount of \$1,000. Each day that a person engages in an act that violates Subsection C(1), (2) or (3) constitutes a separate offense.
- (2) A person who violates Subsection C(4) of this section is guilty of a municipal infraction, punishable by a fine in the amount of \$500. Each day that a person engages in an act that violates Subsection C(4) constitutes a separate offense.
- (3) A person who removes a notice posted by the City pursuant to Section C(5) of this chapter is guilty of a misdemeanor, punishable by a fine in the amount of \$1,000.
- (4) A person who violates any other provision of this section is guilty of a municipal infraction, punishable by a fine in the amount of \$500. Each day that a person engages in an act that violates this section constitutes a separate offense.

E. A municipal infraction citation for a violation of this section shall be served in the manner required by Maryland Annotated Code, Article 23A, Section 3(B).

F. A municipal infraction citation for a violation of this section may be issued and served by a sworn officer or a code enforcement officer of the Seat Pleasant Police Department.

G. Without limitation upon or election against any other available remedy, including the right to seek and obtain abatement of a municipal infraction pursuant to Maryland Annotated Code, Article 23A, Section 3(B), the City may apply to a court of competent jurisdiction for an injunction enjoining any violation of this section. The court shall award attorney's fees and costs to the City if the City succeeds in obtaining an injunction.

§ 107-17. Violations and penalties. [Added 5-13-1996 by Ord. No. 96-02]

Any violation of §§ 107-4, 107-8, 107-9A(2), (3) or (4), 107-10A and 107-15 of this chapter shall be punishable by a fine of \$100. If a person has violated § 107-4 or 107-15 and the violation has continued for more than one day, then the violator shall be assessed an additional fine of \$50 for each day a violation of these sections exist.